IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07-12-2007

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THE HON'BLE MR.JUSTICE M.JAICHANDREN

W.P.No.20679 of 1999

M.Abdul Samath .. Petitioner.

Versus

The District Supply Officer,
Theni, Theni District. .. Respondent.

Prayer: Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari, calling for the entire records relating to impugned proceedings of the respondent in his Proceedings Na.Ka.No.22375/99-N1, dated 7.12.99, on the file of the respondent herein and quash the same.

For petitioner : Mr.C.Prakasam

For respondents: Mr.V.Manoharan
Government Advocate

O R D E R

Heard Mr.C.Prakasam, the learned counsel appearing for the petitioner and Mr.V.Manoharan, the learned Government Advocate appearing for the respondent.

2. It is submitted that the petitioner is a licenced trader dealing in paddy and rice. The petitioner is carrying on his business in the name and style of AMAR stores. While so, the respondent had passed the impugned order in his proceedings Na.Ka.22375/99-N1, dated 7.12.1999, cancelling the whole sale licence of the petitioner. It is further submitted by the petitioner that the impugned order had been passed by the respondent contrary to the provisions of the Tamil Nadu Essential Trade Article (Regulation of Trade) Order, 1984 and that the said order had been passed without giving a show cause notice to the petitioner as per Clause 19(2) of the Tamil Nadu Essential Trade Article (Regulation of Trade) Order, 1984.

3. The only contention raised on behalf of the petitioner is that the impugned order had been passed by the respondent without giving the petitioner an opportunity of being heard.

4. The learned counsel appearing on behalf of the respondent had submitted that the petitioner has been repeatedly contravening the provisions of the Tamilnadu Essential Commodities Act, 1955. In

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spite of the temporary suspension of the licence of the petitioner, the petitioner has been involved in the illegal transportation of Essential Commodities like paddy and rice. On one such occasion, the District Supply Officer, Madurai, had inspected the petitioner's lorry bearing Registration No.TN-60-6586, near Kambam, on 5.6.96, with 145 bags of rice being smuggled to Kerala State without any valid permit or purchase bill. Therefore, the petitioner's lorry bearing Registration No.TN-60-6586 had been seized. Thereafter, on 9.9.96, the petitioner had submitted a petition before the District Revenue Officer, Madurai, stating that he is the owner of the seized lorry. During the course of enquiry, the petitioner had not mentioned anything about his wholesale business of rice or paddy. However, he had filed a writ petition before this Court in W.P.No.10355 of 1995, wherein by an order, dated 12.6.96, this Court had directed the District Revenue Officer, Madurai, to release the lorry subject to certain conditions. According to one of the conditions the petitioner was to file an affidavit of undertaking that he would not use the lorry for any illegal activities. Based on the said condition the lorry was temporarily released, as per the proceedings of the District Revenue Officer, Madurai, made in Roc.No.71034/96, dated 14.6.96.

5. It is further stated that charges had been framed against the licencee, under Section 68 of the Tamil Nadu Essential Commodities Act, 1955 and notices had been served on him calling for an enquiry. After hearing the contentions, it was held that the charges framed against the petitioner had been proved and the 145 bags of rice seized earlier and the security deposit of Rs.15,000/- remitted by the petitioner had been ordered to be confiscated as per the proceedings of the District Revenue Officer, Madurai, dated 19.11.1996. Even thereafter, the petitioner was found to be transporting rice, illicitly, to the State of Kerala. Therefore, the whole sale licence granted to the petitioner for dealing in paddy and rice had been placed under suspension, as per the proceedings of the District Revenue Officer, dated 16.8.99, as per the provisions of the Essential Commodities Act, 1955 and the Tamil Nadu Essential Commodities Trade Article (Regulation and Trade) Order, 1984. Therefore, the petitioner had preferred an appeal before the District Revenue Officer, Theni, on 25.8.1999. Thereafter, a notice had been served on the petitioner calling him for an enquiry. Based on the contentions raised, the District Revenue Officer, Theni, had dismissed the appeal petition, on 29.10.1999, as the charges against the petitioner had been proved. After the rejection of the appeal by the District Revenue Officer, the District Supply Officer, Theni, had passed final orders, on 7.12.1999, cancelling the licence issued to the petitioner, granting 30 days time to file an appeal. The petitioner has filed the present writ petition challenging the said impugned order of the respondent, dated 7.12.1999, invoking Article 226 of the Constitution of India.

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6. The main contention of the petitioner is that the impugned order has been passed without giving the petitioner sufficient opportunity of being heard.

7. Per contra the learned counsel appearing on behalf of the respondent had submitted that the respondent had passed the impugned order, dated 7.12.1999, after hearing the contentions on behalf of the petitioner and after giving sufficient opportunity to him to represent his case. It is also stated by the learned counsel appearing on behalf of the respondent that the petitioner has approached this Court without exhausting the alternative remedy of filing an appeal as provided under the law.

8. The learned counsel appearing for the petitioner had not refuted the contentions raised on behalf of the respondent. In such circumstances, the writ petition stands dismissed, as the petitioner has not shown sufficient cause or reason for this Court to interfere with the impugned order passed by the respondent, at this stage. However, it is made clear that it is open to the petitioner to challenge the impugned proceedings before the appropriate forum in the manner known to law.

Csh

Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

To

The District Supply Officer,
Theni, Theni District.

+ 1 cc to Mr. C. Prakasam, Advocate SR No. 72599

+ 1 cc to the Government Pleader, High Court, Madras SR No.72827

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